

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 14-45497

JAMES WHITFIELD,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING, WITHOUT PREJUDICE, THE MOTION TO WAIVE  
REQUIREMENTS FOR DEBTOR EDUCATION UNDER 11 U.S.C. § 727(a)(11),  
PURPORTEDLY FILED BY DEBTOR ON JULY 11, 2014 (DOCKET # 24)**

This case is before the Court on a motion purportedly filed by the Debtor, entitled “Motion to Waive Requirements for Debtor Education Under 11 U.S.C. § 727(a)(11)” (Docket # 24, the “Motion”). The Motion seeks a waiver of the requirement of post-petition financial education “under the terms of 11 [U.S.C.] § 727(a)(11),” due to the death of Debtor. On July 28, 2014, Debtor’s attorney filed a Certification of Non-Response, indicating that no one has filed an objection to the Motion.

The Motion must be denied because (1) although the Motion purportedly was filed by the Debtor, it could not have been filed by the Debtor, because the Debtor is deceased; and (2) the Motion does not show that it was filed by or on behalf of anyone with standing to seek the relief sought. The Debtor obviously died before the Motion was filed, so Debtor’s attorney had no authority to file the Motion on behalf of the Debtor. Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion like this in the case of a deceased debtor. *Cf.* Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that “[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent’s personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters”); Mich. Comp. Laws Ann. § 700.3703(3) (stating that “[e]xcept as to a proceeding that does not survive the decedent’s death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death”); *In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) (“[W]hen a debtor dies, the only person who can then appear on the debtor’s behalf is the person so named as the official representative of the probate estate of the debtor.”)

Accordingly,

IT IS ORDERED that the Motion (Docket # 24), is denied, without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file a motion seeking a waiver of the requirement of post-petition financial education under 11 U.S.C. § 727(a)(11).

**Signed on July 30, 2014**

**/s/ Thomas J. Tucker**

**Thomas J. Tucker  
United States Bankruptcy Judge**